

**Exhibit D: Chapter 180-16 WAC**

**STATE SUPPORT OF PUBLIC SCHOOLS**

AMENDED SECTIONS

180-16-195 Annual reporting and review process.

180-16-200 Total instructional hour requirement.

NEW SECTIONS

180-16-210 Continuity of Operations Plan

AMENDED SECTION

**WAC 180-16-195 Annual reporting and review process. (1)**

**Annual school district reports.** A review of each school district's kindergarten through twelfth grade program shall be conducted annually for the purpose of determining compliance or noncompliance with basic education program approval requirements. On or before September 15th of each school year, each school district superintendent shall complete and return the program assurance form distributed by the state board of education. The form shall be designed to elicit data necessary to make a determination of a school district's compliance or noncompliance with basic education program approval requirements. ~~For the 2020-21 school year, local education~~

~~agencies shall submit a copy of the reopening schools plan to the state board of education and superintendent of public instruction two weeks before school begins and no later than September 15, 2020.~~ The form shall be submitted electronically

**Commented [PT(1)]:** Amendment to remove rule that was only applicable to 2020-2021

and signed by:

- (a) The school board president or chairperson, and
- (b) The superintendent of the school district.
- (2) **State board staff review.**

(a) State board of education staff shall review each school district's program assurance form, may conduct on-site visits of selected school districts, as needed and subject to funding support, and shall prepare recommendations and reports for presentation to the state board of education: Provided, that, if a school district's initial program assurance form does not establish compliance with the basic education program approval requirements, the district shall be provided the opportunity to explain the deficiency or deficiencies.

(b) School districts may use the personnel and services of the educational service district to assist the school district

**Commented [PT(2)]:** Non-substantive amendment to consistently use "school district(s)" instead of "district."

and schools in the district that are out of compliance with basic education program approval requirements.

**(3) Annual certification of compliance or noncompliance—  
Withholding of funds for noncompliance.**

(a) At the November meeting of the state board of education, or at such other meeting as the board shall designate, the board shall certify by motion each school district as being in compliance or noncompliance with the basic education program approval requirements.

(b) A certification of compliance shall be effective for the then current school year subject to any subsequent ad hoc review and determination of noncompliance as may be deemed necessary by the state board of education or advisable by the superintendent of public instruction. In addition, a certification of compliance shall be effective tentatively for the succeeding school year until such time as the state board takes its annual action certifying compliance or noncompliance with the program approval requirements.

(c) A certification of noncompliance shall be effective until program compliance is assured by the school district to

the satisfaction of state board of education staff, subject to review by the state board.

(d) Upon the certification of noncompliance of a school district, state board of education staff shall notify the superintendent of public instruction and the school district of a certification of noncompliance immediately after the board meeting at which certification occurred.

(e) A withholding of basic education allocation funding from a school district shall not occur for noncompliance if the school district has remediated the noncompliance situation within sixty school business days from the time the district receives notice of the noncompliance from the state board of education. The state board of education may extend the sixty days timeline only if the district demonstrates by clear and convincing evidence to the satisfaction of the state board of education that sixty days is not reasonable to make the necessary corrections. For the purposes of this section, a school business day shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays upon which the office of the superintendent of the school district is

open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(f) At the discretion of the state board of education, after notification by the state board of education to a school district regarding an existing noncompliance, the state board of education may recommend the superintendent of public instruction withholding ~~ing of~~ funds or may enter into a compliance agreement

**Commented [PT(3):** Nonsubstantive Clarification language to ensure that it is clear who may recommend.

**Commented [PT(4):** (f) non-substantive amendment to improve wording and clarify

with the school district that shall include, but not be limited to, the following criteria:

(i) A deadline for school district remediation of the noncompliance(s).

(ii) A listing of all the noncompliance areas and the necessary terms that must be satisfied in each area in order for the school district to gain compliance status. This listing also shall specify additional deadlines for the accomplishment of the stated terms if different from the final deadline as specified in subsection (1) of this section.

(iii) A closing statement specifying that a school district's failure to remediate a noncompliance by the

determined deadline may result, at the state board of education's or its designee's discretion, in the recommendation to the superintendent of public instruction of withholding of the school district's basic education allocation funding by the superintendent of public instruction.

(iv) The date and the signatures of the superintendent of the school district, the chair of the school district's board of directors, and the chair of the state board of education, or his/her designee, to the agreement. A copy of the completed compliance agreement shall be sent to the chairperson of the school district's board of directors and the school district superintendent.

(g) In the event a school district fails to sign a compliance agreement within five school business days from the date of issuance or does not satisfy all of the terms of the signed compliance agreement within the designated amount of time, the state board of education may recommend to the superintendent of public instruction withholding state funds for the basic education allocation until program compliance is assured.

(h) Any school district may appeal to the state board of education the decision of noncompliance by the state board of education. Such appeal shall be limited to the interpretation and application of these rules by the state board of education. Such appeal shall not stay the withholding of any state funds pursuant to this section or completion of the compliance agreement.

(4) The provisions of subsection (3)(g) of this section shall not apply if the noncompliance is related to the school district's fiscal condition and results in the implementation of a financial plan under RCW 28A.505.140(3).

**Commented [PT(5)]:** (4) Non-substantive amendment to consistently use "school district(s)" instead of "district."

(5) Each school district shall develop, maintain and, if necessary, implement a continuity of operations plan under WAC 180-16-200 and WAC 180-16-210 for delivering the program of basic education during disruptions to basic education delivery resulting from an "emergency or disaster" as defined in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

**Commented [PT(6)]:** (5) requires each district maintain a continuity of operations plan and establishes the "emergency" concept that it can be used in.

[Statutory Authority: RCW 28A.150.220(7). WSR 21-05-015, § 180-16-195, filed 2/5/21, effective 3/8/21. Statutory Authority: RCW 28A.150.220 and 28A.150.250. WSR 18-24-090, § 180-16-195, filed

12/3/18, effective 1/3/19. Statutory Authority: RCW 28A.150.220, 28A.150.250, and 28A.150.260. WSR 11-17-044, § 180-16-195, filed 8/11/11, effective 9/11/11. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6). WSR 02-18-056, § 180-16-195, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.150.250, 28A.150.260 and 28A.15.220 [28A.150.220]. WSR 99-10-091, § 180-16-195, filed 5/4/99, effective 6/4/99. Statutory Authority: RCW 28A.58.754(6). WSR 84-11-043 (Order 2-84), § 180-16-195, filed 5/17/84. Statutory Authority: RCW 28A.04.120. WSR 83-13-002 (Order 3-83), § 180-16-195, filed 6/2/83. Statutory Authority: RCW 28A.01.010, 28A.04.120, 28A.41.130, 28A.41.140, 28A.58.754, 28A.58.758, and 1979 ex.s. c 250. WSR 79-10-033 (Order 10-79), § 180-16-195, filed 9/12/79. Statutory Authority: RCW 28A.41.130 and 28A.58.754. WSR 78-06-097 (Order 3-78), § 180-16-195, filed 6/5/78.]

**WAC 180-16-200 Total instructional hour requirement. (1)**

Kindergarten total instructional hour requirement ~~Four hundred fifty hours annual minimum, increased to~~ an annual minimum one thousand instructional hours according to an implementation schedule under RCW 28A.150.315.

**Commented [PT(7)]:** (1) Non-substantive amendment to remove language regarding a phase-in that has completed.



(2) Grades 1-12 total instructional hour requirement -  
District-wide annual average of at least: ~~one thousand hours,~~  
increased beginning in the 2015-16 school year to:

**Commented [PT(8)]:** (2) Non-substantive amendment to remove language regarding a phase-in that has completed.

(a) ~~At least a~~ district-wide average of one thousand  
eighty instructional hours for students enrolled in grades nine  
through twelve and a district-wide annual average of one  
thousand instructional hours in grades one through eight; or

**Commented [PT(9)]:** (2)(a) Non-substantive amendment to improve language.

(b) A district-wide annual average of one thousand twenty-  
seven instructional hours in grades one through twelve.

(3) For nonhigh school districts, a district-wide annual  
average of one thousand instructional hours in such grades as  
are offered by the district.

(4) ~~4~~ Instructional hours are defined in RCW 28A.150.205.

**Commented [PT(10)]:** (4) establishes that the instructional hour definition is in 28A.150.205

(a) Instructional hours are delivered "in-person," as  
defined in RCW 28A.232.010(b), except as provided in (4)(b).

**Commented [PT(11)]:** (4)(a) Clarifies that in-person instruction is expected unless in the scenarios of (4)(b)

(b) School districts may deliver instructional hours

**Commented [PT(12)]:** (4)(a) changed

through learning modalities other than in-person instruction  
which may include, but are not limited to, distance learning,  
hybrid classrooms, rotating schedules, or other methods that  
allow for delivery of basic education services under the

**Commented [PT(13)]:** (4)(b) Clarifies the existing interpretation that various modalities that are not in-person also count as instructional hours.

following: For the 2020-21 school year, "instructional hours" as defined in RCW 28A.150.205 are not limited to in-person educational services.

(i) Funding allocation models established by the legislature or superintendent of public instruction in Chapter 392-121 WAC, RCW 28A.232, and RCW 28A.250 that allow for modalities other than in-person instruction;

(ii) Districts may provide the opportunity for individual students to engage in the program of basic education through modalities other than in-person instruction if so agreed upon by the district and the student due to health or safety needs of the student;

(iii) During implementation of the school district's continuity of operations plan under WAC 180-16-210; and,

(iv) Under any other applicable law that would allow for modalities other than in-person instruction to be delivered.

(5) Nothing in this section supersedes other applicable law.

**Commented [PT(14)]:** (4)(b)(i) establishes that the existing funding models count as hours if they allow for modalities other than in-person.

Note: These would include models like ALE, WBL, and potentially running start, open doors, and possibly other allowances within the chapter.

**Commented [PT(15)]:** (4)(b)(iii) if desired, allows individual students to engage in other modalities for health and safety needs. This would be

**Commented [PT(16)]:** Revision further clarifies that (iii) is a "may" not a "must," therefore is an optional provision of the district.

**Commented [PT(17)]:** Revision further clarifies that this optional provision must be agreed upon by the district and student.

**Commented [PT(18)]:** (4)(b)(iv) allows other modalities to count during the continuous operations plan that can be triggered by an emergency as described in WAC 180-16-195.

**Commented [PT(19)]:** (4)(b)(v) disclaimer that it's also allowed anywhere else it is allowed so that this doesn't supersede other laws.

**Commented [PT(20)]:** (6) states that the section does not supersede other applicable law.

~~For the 2020-21 school year, "instructional hours" as defined in RCW 28A.150.205 are not limited to in-person educational services.~~

~~Local education agencies may count as instructional hours towards the minimum district wide annual average those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff that are delivered through learning modalities which may include, but are not limited to, distance learning, hybrid classrooms, rotating schedules, or other methods that allow for delivery of basic education services during the COVID-19 epidemic. The following are applicable to the 2020-21 school year:~~

~~(a) Nothing in this section supersedes applicable statutory or office of superintendent of public instruction funding allocation requirements;~~

~~(b) Days in which instructional hours are offered shall count as school days for the purpose of meeting the minimum one hundred eighty day school year requirement;~~

~~(c) Local education agencies must implement a system consistent with OSPI attendance rules; and~~

~~(d) The state board of education will revisit this rule no later than its regularly scheduled July 2021 board meeting.~~

[Statutory Authority: RCW 28A.150.220(7). WSR 21-05-015, § 180-16-200, filed 2/5/21, effective 3/8/21. Statutory Authority: 2014 c 217 and RCW 28A.230.090. WSR 14-19-032, § 180-16-200, filed 9/8/14, effective 10/9/14. Statutory Authority: Chapter 28A.630 RCW. WSR 01-24-092, § 180-16-200, filed 12/4/01, effective 1/4/02. Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. WSR 95-20-086, § 180-16-200, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 28A.410.010. WSR 94-03-104 (Order 5-94), § 180-16-200, filed 1/19/94, effective 2/19/94. Statutory Authority: RCW 28A.150.220, 28A.320.200, 28A.150.260 and 1992 c 141. WSR 92-17-053, § 180-16-200, filed 8/17/92, effective 9/17/92. Statutory Authority: RCW 28A.150.220 and [28A.150.]260. WSR 92-05-047, § 180-16-200, filed 2/13/92, effective 3/15/92. Statutory Authority: RCW 28A.04.127 and 28A.41.140. WSR 86-21-020 (Order 15-86), § 180-16-200, filed 10/7/86. Statutory Authority: RCW 28A.58.754(6). WSR 84-11-043 (Order 2-84), § 180-16-200, filed 5/17/84. Statutory Authority: RCW 28A.01.010, 28A.04.120, 28A.41.130, 28A.41.140, 28A.58.754, 28A.58.758, and 1979 ex.s. c 250. WSR 79-10-033 (Order 10-79), § 180-16-200, filed 9/12/79. Statutory Authority: RCW 28A.41.130

and 28A.58.754. WSR 78-06-097 (Order 3-78), § 180-16-200, filed 6/5/78.]

NEW SECTION

WAC 180-16-210 Continuity of Operations Plan

By the beginning of the 2021-2022 school year, each school district shall develop, maintain and, if necessary, implement a continuity of operations plan that ensures delivery of basic education services during disruptions to basic education delivery resulting from an "emergency or disaster" as defined in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official. |

(1) The continuity of operations plan shall describe the following:

(a) The process for the school district to decide how to transition to modalities other than in-person instruction if needed in the event of an emergency or disaster in order to ensure equitable delivery of the program of basic education to all students;

(b) The roles of school district staff responsible for executing the continuity of operations plan during an emergency;

**Commented [PT(21):** New section 210 establishes the COOP by start of SY '21-22.

**Commented [PT(22):** New section -210: Latter part of introduction establishes the conditions that the COOP can be used under.

**Commented [PT(23):** (1) establishes the components of the COOP.

**Commented [PT(24):** (a) establishes a process within the COOP to begin decision-making on the district's transition of basic ed delivery during an emergency

**Commented [PT(25):** (b) informs the district who should act to execute the plan.

(c) The process for the school district to decide how to transition to offering each student in-person instruction when the disruptions to basic education delivery due to the emergency have ended; and,

**Commented [PT(26)]:** (c) requires the district to plan to transition to offering in-person to all

(d) The schedule for routine review of the continuity of operations plan by the district.

**Commented [PT(27)]:** (d) requires district establish a schedule for review of the COOP

(2) The following apply during implementation of the continuity of operations plan:

**Commented [PT(28)]:** (2) establishes terms and conditions of the COOP

(a) Days in which instructional hours are offered shall count as school days for the purpose of meeting the requirements of RCW 28A.150.220;

**Commented [PT(29)]:** (a) allows days on which instructional hours are provided to be counted as school days for the purposes of meeting the school day requirement.

Notes: This was an element of the rule for 2020-2021. That element was rephrased to refer to basic education statute rather than writing "one hundred and eighty school days per year requirement" within the WAC.

(b) Nothing in this section supersedes other applicable law.

**Commented [PT(30)]:** (d) states that the section does not supersede other applicable law.

(3) Each school district that implements its continuity of operations plan shall notify the state board of education and office of superintendent of public instruction within five days of the decision to implement the continuity of operations plan by email and postal mail of the following:

**Commented [PT(31)]:** (3) establishes the need to notify OSPI/SBE, how (mail+email), when (within five days), and the components of that notification.

(a) Date that the disruptions to basic education delivery began or will begin if there is an impending emergency

**Commented [PT(32)]:** (3)(a) establishes that they need to submit date information relevant to the COOP implementation

situation and the estimated duration of the emergency or disaster;

(b) Documentation of the emergency or disaster, such as a declaration of emergency, and information that describes the disruption to basic education delivery due to the emergency; and,

**Commented [PT(33)]:** (3)(b) Requires they provide documentation about what the emergency is/was and how it affects basic ed delivery.

(c) Contact information for school district staff who are responsible for executing the continuity of operations

**Commented [PT(34)]:** (3)(c) Establishes a point of contact.

plan; and,

(d) Further information or assurances upon request, at the discretion of state board of education or office of superintendent of public instruction staff.

**Commented [PT(35)]:** (3)(d) is a catch-all so that we can ask for any further information at our discretion and establish the expectation that they provide it.

(4) At the discretion of state board of education staff, each school district's compliance with the requirements of the program of basic education is subject to review under WAC 180-16-195.

**Commented [PT(36)]:** (4) This allows for the school district to act quickly while allowing the state to still review basic education compliance and intervene under 180-16-195 if necessary.

(5) This Continuity of Operations Plan may be used as a component of the comprehensive emergency management plan under RCW 38.52.030.

**Commented [PT(37)]:** 38.52.030 is of particular importance because it establishes a continuity of operations for every government organization.